United Nations A/62/805

General Assembly

Distr.: General
18 April 2008

Original: English

Sixty-second session
Agenda item 140
Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Status of cases for death and disability for formed police units, military contingents, civilian police officers and military observers processed and currently in process and comprehensive review of the administrative and payment arrangement for such cases

Report of the Secretary-General

Summary

The present report contains information on payments made for death and disability cases; current status on the claims under process with the Secretariat; and proposals to streamline the process, including equal treatment of all members of contingents, formed police units, civilian police officers and military observers.

The actions to be taken by the General Assembly are set out in paragraph 17.

08-31043 (E) 220508

I. Introduction

1. In paragraph 4 of section X of its resolution 61/276, the General Assembly requested the Secretary-General to review the payment of awards in cases of disability sustained by members of peacekeeping contingents and formed police units, civilian police officers and military observers in incidents that occurred after 30 June 1997, with a view to ensuring that for those cases of permanent disfigurement or loss of a member or function specifically referred to in the schedule of awards set out in annex V to the report of the Secretary-General (A/52/369) and appendix D to the Staff Rules, the amount of compensation paid by the United Nations has not been less than the award levels set out in the schedule.

2. Further, in paragraph 6 of section X of the resolution, the General Assembly expressed deep concern about delays in the settlement of claims in respect of death and disability, and requested the Secretary-General to take urgent measures to eliminate the existing backlog of death and disability claims pending for more than three months.

3. In paragraph 9 of section X of the resolution, the General Assembly requested the Secretary-General to conduct a comprehensive review of the administrative and payment arrangements and procedures for the payment of compensation in cases of death and disability sustained by members of peacekeeping contingents and formed police units, civilian police officers and military observers with a view to simplifying, streamlining and harmonizing the current process, and to submit a report thereon to the General Assembly at the second part of its resumed sixty-second session addressing, inter alia, the following issues:

(a) Options to ensure the equal treatment of members of peacekeeping contingents and formed police units, civilian police officers and military observers;

(b) The possible establishment of a deadline for the completion and submission of board of inquiry reports and measures to ensure its observance;

(c) Clear delineation of responsibilities of the United Nations and the Member States in the submission of documentation in support of death and disability claims;

(d) Full lists of documents to be submitted in support of death and disability claims by the Member States and, where applicable, beneficiaries;

(e) Possible limits in the number of requests for documents besides those specified in the lists referred to in subparagraph (d) above;

(f) The principle that in cases of doubt, death and disability claims are given sympathetic consideration;

(g) Possible procedures for a simplified settlement of death and disability claims whenever the Secretary-General is unable to complete the administrative procedures for processing such claims within the established time limit.

4. In its resolution 52/177, the General Assembly approved the proposal of the Secretary-General contained in A/52/369 establishing an amount of $50,000 towards the payment for death cases for members of military contingents and formed police units. In cases of permanent disability, the reimbursement was to be a percentage of $50,000. The payments to civilian police officers and military observers were

limited to a ceiling of two years' salary or $50,000, whichever was higher. The review of military contingent and formed police unit cases would be undertaken by the Department of Field Support in conjunction with the Medical Service Division, while the cases for civilian police officers and military observers would follow the prescribed procedure for United Nations personnel under appendix D to the Staff Rules and would be reviewed by the Advisory Board on Compensation Claims. Since 1997, the Secretariat has made payments in 595 cases for death of military contingent members and formed police unit personnel in peacekeeping operations. In the same period, the Secretariat has made payments in 65 cases of deaths of military observers and civilian police officers in field missions. The Secretariat takes all incidents of death or injury seriously and informs the Member States within 72 hours. Notifications of Casualty (NOTICAS)/facsimiles are sent by the field missions to the Department of Peacekeeping Operations of the Department of Field Support within 24 hours of the incident and the Secretariat notifies the Permanent Missions immediately. Procedures for filing of claims are provided by the Secretariat to the Permanent Missions during briefings and memorandum of understanding negotiations.

II. Analysis of claims paid since 1 July 1997

5. In response to paragraph 4, section X of General Assembly resolution 61/276, the Secretariat reviewed 218 cases of disability compensation claims, 161 for military contingents and formed police units, and 57 for civilian police officers and military observers.

6. In all 161 claims for military contingents and formed police units, the percentage level of impairment was assessed according to the Schedule of Awards as set out in paragraph (b) of annex V to the report of the Secretary-General A/52/369, as well as the American Medical Association Guide to Evaluation of Permanent Impairment (after mentioned as the AMA Guide). With regard to the latter, both the fourth (as per resolution 52/177) and the fifth edition (the latter edition having been published since the resolution was adopted) were referenced. The schedule of awards was applicable in 11 cases only (6.8 per cent of cases). Of the 11 cases to which the Schedule of Awards applied, 7 were assessed at the same level of impairment as noted in the Schedule, 1 was awarded more, and 3 were awarded less than noted in the Schedule for that level of impairment.

7. The case of higher payment than provided for in the Schedule was based on the higher level of impairment prescribed by the AMA Guide. The injury sustained by the claimant was partial amputation of the ring, middle and little fingers of the left hand. Based on the Schedule, the compensation would be assessed at 18 per cent. The AMA Guide, however, provides for 21 per cent, based on the specific loss of function. The Secretariat made an award based on the higher permanent loss of function, and paid the applicable amount.

8. Two cases of lower payments provided for by the AMA Guide as compared to the Schedule involved amputation with the possibility of fitting a prosthesis at some later point. The awards based on the Schedule would have been 28 per cent in one case and 40 per cent in the other case. However, since the Schedule was last reviewed in 1966 and prostheses were then not as sophisticated as they are now, and the Schedule does not make a distinction regarding the level of amputation as a

crucial element for the determination of the severity of the disability. In the aforementioned cases, the AMA Guide was used, which considers the award from the perspective of applicability of prosthesis. According to the AMA Guide, the awards were 25 per cent and 36 per cent, respectively, and corresponding amounts were paid.

9. The third case of lower payment related to a contingent member becoming paraplegic (paralysis of both lower limbs) as a result of an injury. The compensation as per the Schedule would have been 100 per cent of the maximum amount allowed. As required by paragraph 10 of the Secretary-General's report A/52/369, reference was made to the AMA Guide, which provides for an award of 80 per cent as, in the opinion of the medical community, paraplegia should not be considered equivalent to death in terms of payment. Therefore, 80 per cent compensation was paid.

10. Since July 1997, the Secretariat has paid 57 disability claims to civilian police officers and military observers. The claims were paid taking into consideration appendix D to the Staff Rules and the AMA Guide, with the overall ceiling level being two years' salary or $50,000, whichever is higher. The Schedule could be applied in only two cases (amputation at right elbow level and loss of left eye). The remaining 55 claims were processed according to and using the AMA Guide.

11. The Schedule could be applied in only 13 out of 218 cases (5.9 per cent) due to the fact that the vast majority of the claims involved injuries and illnesses not covered by the Schedule, such as back injuries resulting in chronic pain syndromes, bone fractures and sprains resulting in minimal impairment, disfigurement due to skin scars and illnesses (infections, cardiovascular ailments, psychiatric conditions). In all these cases, the AMA Guide provides precise calculations of permanent disability.

12. Moreover, during the review, the Secretariat recalculated the disability compensation awarded in every case using both the fourth and the fifth editions of the AMA Guide. It was noted that in every case, the fifth edition awarded either the same or a higher level of compensation than did the fourth edition. The Secretariat has used the AMA Guide since its first edition and every subsequent edition of the guide has seen an improvement in each chapter devoted to a system of the body, including a more thorough consideration of possible disability within that particular system with increasingly user-friendly calculation of the disability. The Secretariat is of the opinion that the most current edition of the AMA Guide should be used as the authoritative reference for all disability cases related to military contingents, formed police units, civilian police officers and military observers. Moreover, the Secretariat has referred to the AMA Guide in all of the disability cases, thus ensuring equitable and transparent consideration of all cases and keeping in view the best interests of the Organization and that of the injured personnel.

III. Current status of claims under processing

13. As at 28 February 2008, 94 cases for military contingents and formed police units (17 for death and 77 for disability) are under processing and 25 cases are under review for civilian police officers and military observers (3 for death and 22 for disability). Details of the cases are provided in the annex.

14. As directed by the General Assembly, the Secretariat endeavours to settle the cases within the prescribed three-month period. However, not all cases can be settled within that time frame. Claims may remain in processing because (a) confirmation is required from the field mission that the death or disability was mission- or service-related; and (b) additional medical information is required from the Member States to confirm the extent of permanent impairment, along with a report from treating physicians regarding completion of all treatment and achievement of maximum improvement in order to determine permanent loss of function. In all disability cases, the final determination cannot be made until a final medical report detailing the degree of permanent disability is received. The determination can be a lengthy process due to the long period of time between when the incident occurred and when the permanent disability can be determined. In addition, the Member States submit claims soon after the incident occurs and before the permanent disability has been determined, resulting in a claim pending with the Secretariat.

15. The Secretariat takes all necessary measures to process the ongoing claims. Towards that objective, the cases are processed even when the mission casualty report is not available, as some of the deaths or disabilities take place after the personnel have been repatriated. In such cases, the Secretariat relies upon other supporting documentation, such as medical referrals from mission hospitals and other mission-specific medical records. The cases are also processed based on NOTICAS confirmation from the force commander when the prima facie evidence does not point to gross negligence and wilful misconduct on the part of the injured or deceased individual, thus avoiding delays resulting from the duration of Boards of Inquiry.

16. The Secretariat regularly corresponds with Member States requesting relevant information, and reminders are sent to the Permanent Missions of the Member States. Further, the Secretariat appeals to the Member States to provide necessary documentation as soon as possible, in order to process cases without delay and eliminate the backlog.

IV. Comprehensive review of the administrative and payment arrangements and procedures for payment

17. As requested by the General Assembly, the Secretariat has initiated a comprehensive review of the procedures for settlement of death and disability claims. As issues to be discussed are cross-cutting in nature and will have an impact on the future work processes in several departments, a working group comprising representatives of the Department of Management (Medical Services Division and Advisory Board on Compensation Claims) and the Department of Field Support (Field Personnel Division and Field Budget and Finance Division) has been established. The working group will review the current methodology and suggest measures on the following:

(a) Providing equal treatment to members of peacekeeping contingents and formed police units, civilian police officers and military observers. Under the current system, award for death or disability depends on the nature of deployment of the uniformed personnel. While the beneficiaries of the deceased military contingent and formed police unit members are awarded a maximum payment of $50,000,

payment to the beneficiaries of the civilian police officers and military observers may be more than $50,000, if their last drawn annual salary exceeded $25,000. The working group will explore options on how awards could be made equal for all categories of uniformed personnel, which will include other categories of personnel deployed, for example, corrections officers;

(b) Reviewing the current process followed for Boards of Inquiry in the mission and improving the process. However, as the Secretariat processes the death and disability cases without waiting for the Board of Inquiry report, when the force commander confirms there was no prima facie evidence of gross negligence and wilful misconduct, that will have an impact on only a small number of cases where the prima facie evidence suggests gross negligence and wilful misconduct on the part of the injured or deceased;

(c) Based on past experience, suggesting a list of documentation that should be submitted by Member States in support of the claim. The list will also clearly delineate which responsibilities fall to the Member States and which must be fulfilled by the Secretariat;

(d) Recommending limits on the number of requests for information, other than those in the proposed list mentioned in (c) above;

(e) Recommending a simplified process for settlement of claims for death and disability whenever the administrative procedures cannot be completed in a set time frame, including procedures for cases in which the medical documentation cannot be submitted within a reasonable time. The simplified process would also take into account the principle of sympathetic consideration in case of doubt.

18. It is expected that the working group will be able to complete its task in time for the Secretariat to present its report at the resumed sixty-third session.

V. Actions to be taken by the General Assembly

19. **The General Assembly is requested to take note of this report.**

Annex

Claims in process

Death claims as at 29 February 2008 for military contingents and formed police units

By country

Country	*Number of claims*
Benin	1
Egypt	1
Ghana	1
India	1
Kenya	1
Morocco	2
Nigeria	4
Senegal	1
South Africa	4
Thailand	1
Total	**17**

By mission

Missions	*Number of claims*
United Nations Organization Mission in the Democratic Republic of the Congo	5
United Nations Mission in Ethiopia and Eritrea	1
United Nations Mission in Liberia	5
United Nations Mission in Sierra Leone	1
United Nations Mission in the Sudan	1
United Nations Operation in Burundi	2
United Nations Operation in Côte d'Ivoire	2
Total	**17**

Disability claims as at 29 February 2008 for military contingents and formed police units

By country

Country	*Number of claims*
Bangladesh	7
Bolivia	2
Brazil	1
China	1
Ethiopia	1
Ghana	3
India	3
Jordan	16
Kenya	1
Mozambique	2
Namibia	1
Nepal	1
Nigeria	1
Pakistan	6
Peru	1
Poland	15
Senegal	1
Ukraine	2
Uruguay	1
Zambia	11
Total	**77**

By mission

Mission	*Number of claims*
United Nations Disengagement Observer Force	8
United Nations Interim Force in Lebanon	7
United Nations Organization Mission in the Democratic Republic of the Congo	10
United Nations Mission in Ethiopia and Eritrea	10
United Nations Mission in Liberia	8
United Nations Mission in Sierra Leone	13
United Nations Mission in the Sudan	10
United Nations Operation in Côte d'Ivoire	1
United Nations Stabilization Mission in Haiti	7
Total	**74**

Claims as at 29 February 2008 for civilian police officers

Disability claims
By mission

Mission	*Number of claims*
United Nations Mission in Bosnia and Herzegovina	2
United Nations Mission in Haiti	1
United Nations Interim Administration Mission in Kosovo	8
United Nations Protection Force	2
United Nations Transitional Authority in Cambodia	2
Total	**15**

Death claims
By mission

Mission	*Number of claims*
United Nations Organization Mission in the Democratic Republic of the Congo	1

Claims as at 29 February 2008 for military observers

Death claims
By mission

Mission	*Number of claims*
United Nations Organization Mission in the Democratic Republic of the Congo	1
United Nations Mission in the Sudan	1
Total	**2**

Disability claims
By mission

Mission	*Number of claims*
United Nations Military Observer Group in India and Pakistan	1
United Nations Organization Mission in the Democratic Republic of the Congo	1
United Nations Interim Administration Mission in Kosovo	1
United Nations Mission in Sierra Leone	1
United Nations Mission of Support in East Timor	1
United Nations Observer Mission in Georgia	1
United Nations Verification Mission in Guatemala	1
Total	**7**